

Jon P. FitzGerald

Opening Statement
Executive and Legislative Nominations Committee
Human Rights Referee, Commission on Human Rights and Opportunities
April 13, 2010

Good morning Senator Looney, Representative Janowski and members of the committee.

I am Jon FitzGerald of Bristol. It is a pleasure to appear before you today and I am honored to again be nominated by Governor Rell as a Human Rights Referee at the Commission on Human Rights and Opportunities.

I am a graduate of Boston College, received my J. D. from Case Western Reserve University School of Law and a Master's Degree in Public Policy from Trinity College. Prior to my original appointment in January 1999, I was an attorney in general practice in Bristol.

In January 1999, the governor appointed me as a full-time Human Rights Referee for a one-year term, pursuant to P. A. 98-245. I was nominated by the governor and confirmed by the General Assembly in 2000, 2005 and 2007.

My current civic and professional memberships include serving on the executive committees of the Connecticut Bar Association's Administrative Law section and its Labor and Employment Law section, as vice-chairperson of Bristol's charter revision commission, and as vice-chairperson of the Board of Directors of Bristol Preschool Child Care Center, Inc.

Complaints filed with the commission are subject to an evaluative process, beginning with a merit assessment review and, if the complaint is retained, an investigation by a commission investigator. If the investigator determines that there is reasonable cause to believe that discrimination may have occurred as alleged in the complaint, the complaint is certified for a public hearing. To give you a sense of the hearing process and our duties, I would like to give you a brief overview of what happens after a commission investigator finds reasonable cause, and the complaint then comes to our office as a contested case under the Uniform Administrative Procedures Act.

First, the complaint is assigned by the chief human rights referee to a referee who serves as the presiding referee for that case. The presiding referee assigns a date for a hearing conference and notice is sent to the parties. The hearing conference serves as a scheduling conference at which dates are assigned for the disclosure of documents, objections to disclosure of documents, motions to compel, the exchange of witness and exhibit lists, a pretrial conference with the presiding referee and the public hearing (trial). A settlement conference, conducted by a referee other than the presiding referee, will also be scheduled, and dates may also be assigned for the filing of preliminary motions. The hearing conference is also an opportunity for the presiding referee to explain the procedure to attorneys and pro se parties who may be unfamiliar with the contested case process.

Thereafter, at the settlement conference, the settlement referee will work with the parties to settle the case. If the case does not settle, the parties prepare

for the public hearing through the exchange of documents and of witness and exhibit lists. Status conferences with the parties and the presiding referee may be held to resolve issues such as the objection by a party to the production of documents requested by an opposing party. Prior to the commencement of the public hearing, the presiding referee will meet with the parties at a pretrial conference to resolve any outstanding issues, review the witness and exhibit lists and discuss the conduct of the public hearing.

As a presiding referee, then, my workday could involve conducting a hearing conference, a status conference, a pretrial conference or a public hearing, which average three to five days. I will also be reviewing, researching and ruling on motions, some as uncomplicated as a request for a continuance; others more complicated, such as motions to amend a complaint, motions to dismiss a complaint, motions to compel the production of documents or motions to exclude witnesses or documents from the public hearing. After a public hearing concludes, I review the exhibits, transcripts and the parties' briefs. I will be researching the current state and federal caselaw on the legal issues of the case, and then writing detailed final decisions with my factual findings based on the evidence presented, my analysis of the applicable caselaw to the facts and, when discrimination is found, ordering the appropriate remedy.

When serving as a settlement referee in another referee's case, I prepare for the settlement conference by reviewing the pleadings in the file, the settlement conference reports submitted by the parties, and the applicable case law. The settlement conference itself is an opportunity for me to guide the parties

in identifying their individual and common interests, offering alternatives, and serving as a "reality check" as to the strengths and weaknesses of the parties' case.

The position of chief human rights referee is a designation conferred on one of the referees for a one-year term by the commission's executive director. The chief referee performs the duties of a presiding and a settlement referee and also supervises the daily operations and activities of the referees' Office of Public Hearings. Typically, this designation rotates among the referees approximately every two years. I have had the pleasure of serving as the chief human rights referee for two years, and beginning March 26, 2010, referee J. Allen Kerr assumed the duties of chief.

I appreciate your attention and welcome the opportunity to answer any questions you may have.

Thank you.